

REMARKS

Claims 23, 29-39, 42, 43, 46-48, and 50-61, as amended and new claims 62-64 are presented in this application. Claims 23, 58, 62 and 64 are in independent form. Claims 1-22, 24-28, 40, 41, 44, 45 and 49 have been cancelled. Claims 23, 29, 31-33, 35, 37, 42, 43, 46, 47, 48 and 56-61 have been amended to further define the invention, while new claims 62-64 has been added. The claim amendments and additions do not introduce new matter so that they should be entered at this time to reduce the issues for appeal. It is believed that these amendments do not raise new issues that require a further search since the amendments and new claims recite features that were previously presented in dependent claims such as claims 43 to 45. For the reasons that follow, it is respectfully submitted that these changes at least overcome some of the rejections, thus reducing the issues for appeal, but applicants submit that these changes now place the entire application in condition for allowance.

Rejection under 35 U.S.C. § 112

Claims 23, 29-32, 34-37, 39 and 42-61 were rejected under 35 U.S.C. § 112, first paragraph, for failing to comply with the written description and enablement requirements. In particular, the Examiner states the claims recites limitations (*i.e.*, a protein-containing food product and a temperature above 75 degrees) which were not described in the specification in such a way to convey that the inventors had possession of the claimed invention at the time the application was filed. Additionally, the Examiner states the specification does not reasonably provide enablement for a non-specified protein containing food product. Applicants respectfully disagrees as to both these points. Nevertheless, in clarifying Applicants' invention, Applicant has removed the language which forms the basis of the Examiner's rejections. Therefore, the rejection is moot. Accordingly, Applicants respectfully request that the Examiner withdraw the rejections.

Rejection under 35 U.S.C. § 102(b)/103(a)

Claims 23, 29-39, 42-57 and 59-61 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,762,096 to Mirabile ("the Mirabile '096 patent"). Claim 58 was rejected under 35 U.S.C. §102(b) as anticipated by or, in the alternative, under 35

U.S.C. §103(a) as being unpatentable over the Mirabile '096 patent which incorporates U.S. Patent No. 4,527,585 to Mirabile ("the Mirabile '585 patent").

Both the Mirabile '096 and '585 patents describe moving a cleaning solution/detergent through a dispensing line, immediately followed by rinsing (see the Mirabile '096 patent, col. 7, lines 18-34; the Mirabile '585 patent, col. 5, lines 39 - col. 6, line 3). In the Mirabile '585 patent, the rinsing is performed with hot and cold water.

The present application is different from the Mirabile '096 patent and the Mirabile '585 patent in that at least one sanitizing operation is performed independent of cleansing and rinsing (see paragraphs[146] to [160] of the published application). Moreover, the present application discloses using a sanitizing fluid having a temperature which is sufficient to reduce microbiological deposits on a path that has encountered milk based products (see paragraph [156]).

Applicants have amended claims 23 and 58 to more clear define the invention. Claim 23 now recites "directing a cleansing fluid along a cleansing fluid path . . . to conduct a cleansing operation on at least a portion of the dispensing path; rinsing the at least a portion of the dispensing path after the cleansing operation to remove cleaning fluid therefrom; [and] directing a sanitizing fluid to the at least a portion of the dispensing path to conduct a sanitizing operation, wherein the sanitizing operation occurs independently of the cleansing operation and rinsing for sanitizing the at least a portion of the dispensing path" Claim 58 now recites "conducting a sanitizing operation by directing a sanitizing fluid along the at least a portion of the dispensing path, wherein the sanitizing fluid is at a temperature which is sufficient to sanitize the at least a portion of the dispensing path that has encountered a milk based product" As these changes are supported by the specification paragraphs identified above, there is no issue of new matter.

Applicants respectfully submit that neither the Mirabile '096 patent nor the Mirabile '585 patent discloses, teaches or suggests all the features of claims 23 and 58. Specifically, there is no disclosure, teaching or suggestion in the Mirabile '096 patent or the Mirabile '585 patent of a sanitizing operation which is independent of the cleansing operation and rinsing. Moreover, there is no disclosure, teaching or suggestion in the Mirabile '096 patent or the Mirabile '585 patent of conducting a sanitizing operation by directing sanitizing fluid which is at a temperature which is sufficient to sanitize the dispensing path that has encountered

a milk based product. As all the features recited in independent claims 23 and 58, as amended, are not disclosed, taught or suggested by the Mirabile '096 patent or the Mirabile '585 patent, Applicants submit that these claims are allowable over the Mirabile '096 patent and the Mirabile '585 patent. Dependent claims 29-39, 42, 43, 46-57 are dependent from independent claim 23 and dependent claims 59-61 are dependent from independent claim 58 and are allowable for at least the same reason as discussed above in connection with claims 23 and 58.

Rejection under 35 U.S.C. § 103(a)

Claims 23, 29-32, 34-36 and 48-57 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,855,295 to Lee ("Lee").

Lee describes an automatic washing apparatus and method, which uses hot water to wash a drink mixing part in a vending machine (see Lee, col. 4, line 65 - col. 5, line 5). The present invention is different from Lee in that a cleaning fluid is used, in addition to a sanitizing fluid (e.g., hot water), to clean/sanitize a dispenser.

Applicants have amended claim 23 to more clear define Applicants' invention. Claim 23 now recites "directing a cleansing fluid along a cleansing fluid path . . . to conduct a cleansing operation on at least a portion of the dispensing path . . . [and] directing a sanitizing fluid to the at least a portion of the dispensing path to conduct a sanitizing operation" Applicants respectfully submit that Lee does not disclose, teach or suggest all the limitations of claim 23. Specifically, there is no disclosure, teaching or suggestion in Lee of a cleansing operation using cleansing fluid as well as a sanitizing operation using a sanitizing fluid. As all the features recited in independent claim 23, as amended, are not disclosed, taught or suggested by Lee, Applicants submit that this claim is allowable over Lee. Dependent claims 29-32, 34-36 and 48-57 are dependent from independent claim 23 and are allowable for at least the same reason as discussed above in connection with claim 23

New Claims 62-64

Claims 62-64 have been added to more clearly define Applicant's invention. No new matter has been added. Claims 62 and 64 find support in the previous claims and the specification paragraphs noted above regarding the amendments to claims 23 and 58. Support

for claim 63 appears in the specification and current claims 34, 52 and 55. Accordingly, there is no issue of new matter in entering these claims.

Claim 62 recites "directing a cleansing fluid . . . to conduct a first cleansing operation . . . directing cleansing fluid . . . to conduct a second cleansing operation . . . wherein the second cleansing operation occurs a period of time after the first cleansing operation; rinsing . . . to remove cleansing fluid . . . [and] directing sanitizing fluid to . . . conduct at least one sanitizing operation during the period of time between the first and second cleansing operations. . . ." Applicants respectfully submit that neither the Mirabile '096 patent, the Mirabile '585 patent nor Lee discloses, teaches or suggests all the features of claim 62. Specifically, there is no disclosure, teaching or suggestion in the Mirabile '096 patent, the Mirabile '585 patent or Lee of performing at least one sanitizing operation in between cleansing operations and rinsing. As all the features recited in independent claim 62 are not disclosed, taught or suggested by the Mirabile '096 patent, the Mirabile '585 patent or Lee, Applicants submit that this claim is allowable over the Mirabile '096 patent, the Mirabile '585 patent and Lee.

Dependent claim 63 is dependent from independent claim 62 and is allowable for at least the same reason as discussed above in connection with claim 62.

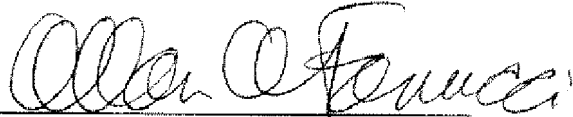
Claim 64 recites " directing a cleansing fluid . . . to conduct a cleansing operation on the at least a portion of the dispensing path, wherein at least a component of the cleansing fluid is stored in a container within the dispenser; [and] directing a sanitizing fluid to at least a portion of the dispensing path to conduct a sanitizing operation" Applicants respectfully submit that neither the Mirabile '096 patent, the Mirabile '585 patent nor Lee discloses, teaches or suggests all the features of claim 64. Specifically, there is no disclosure, teaching or suggestion in the Mirabile '096 patent, the Mirabile '585 patent or Lee of directing a cleansing fluid to perform a cleansing operation and directing a sanitizing fluid to perform a sanitizing operation where a component of the cleansing fluid is stored in the actual dispenser itself. As all the features recited in independent claim 64 are not disclosed, taught or suggested by the Mirabile '096 patent, the Mirabile '585 patent or Lee, Applicants submit that this claim is allowable over the Mirabile '096 patent, the Mirabile '585 patent and Lee.

In light of Applicants' amendments and remarks, a notice of allowance is respectfully requested. Should the Examiner have any questions or concerns regarding the amendments, remarks or the above-identified application, then a telephonic interview with the undersigned is respectfully requested to discuss any such questions or concerns and to accelerate the allowance of the above-identified application.

Respectfully submitted,

Date:

12/4/06



Allan A. Fanucci (Reg. No. 30,256)

WINSTON & STRAWN LLP
CUSTOMER NO. 28765
(212) 294-3311